

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

DENNIS GROMOV, individually and on)	
behalf of all other similarly situated,)	
)	
Plaintiff,)	Case No. 1:22-cv-06918
)	
v.)	Hon. Franklin U. Valderrama
)	
BELKIN INTERNATIONAL, INC.,)	Magistrate Judge Gabriel A. Fuentes
)	
Defendant.)	
)	

**PLAINTIFF’S RESPONSE IN OPPOSITION TO DEFENDANT’S MOTION FOR
LEAVE TO FILE SUPPLEMENTAL AUTHORITY
RE: BELKIN’S MOTION TO DISMISS**

Plaintiff opposes Defendant’s motion for leave to file supplemental authority in support of its motion to dismiss. Specifically, the decision in *Sorkin v. Kroger Co.*, No. 23 C 14916, 2024 U.S. Dist. LEXIS 139204 (N.D. Ill. Aug. 6, 2024), is not controlling and is also not relevant to the issues in the motion to dismiss.

First, *Sorkin* concerns facts dissimilar from the present case, in that it involves an alleged product labeling misrepresentation concerning the purchase of eggs from a grocery store. Here, however, Plaintiff’s claims relate to Belkin’s false advertising of a consumer electronics product commonly referred to as a power bank. Moreover, *Sorkin* involved a single claim under the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, *et seq.* (the “ICFA”), whereas Plaintiff brings claims under the ICFA, various other state fraud and consumer protection statutes, for breach of express warranty, and unjust enrichment. Dkt. No. 1.

The holding in *Sorkin* was that “[a]t bottom, Sorkin has not plausibly shown that his definition of ‘farm fresh’ aligns with the expectations of a reasonable consumer.” *Sorkin*, 2024

U.S. Dist. LEXIS 139204, at *13. After the plaintiff in *Sorkin* changed his theory of the case in response to a motion to dismiss and filed an amended complaint, the court reasoned that no reasonable consumer could interpret “farm fresh” to mean anything other than precisely what it says, eggs that are fresh from a farm. It was too much of a logical leap for consumers to reasonable believe that such phrase meant hens that were essentially “cage free”. *See id.* at *1 and *12. That holding has no bearing on the present case.

Plaintiff’s consistent position is that Belkin engages in false or misleading representations concerning the promised energy output of its many substantially similar power banks, as measured in mAh, where Belkin represents, for example, “10,000 mAh”. Dkt. No. 1, ¶¶ 17, 41. Given this express “mAh” representation on the product packaging, “[o]rdinary reasonable consumers such as the Plaintiff read the represented mAh and expect and understand that the Products actually *deliver* that amount of mAh.” *Id.* at ¶ 49 (emphasis in Complaint).

Second, even if *Sorkin* were relevant (it is not), that recent decision on a motion to dismiss issued on August 6, 2024, is from the Northern District of Illinois, meaning it is not controlling authority. *See Julie A. Su v. Fensler*, No. 22-cv-01030, 2023 U.S. Dist. LEXIS 218159, at *22 n.7 (N.D. Ill. Nov. 28, 2023) (noting “district court cases are not controlling authority ...”).

Accordingly, Plaintiff respectfully requests that the Court deny Defendant’s motion filed at Dkt. No. 125.

Dated: August 22, 2024

Respectfully submitted,

/s/ Jason A. Ibey

Jason A. Ibey (N.D. Il Bar # 16691)

jason@kazlg.com

KAZEROUNI LAW GROUP, APC

321 N. Mall Drive, Suite R108

St. George, Utah 84790

Phone: 800-400-6808

Seyed Abbas Kazerounian (Ill. Bar No. 6316129)

ak@kazlg.com

KAZEROUNI LAW GROUP, APC

245 Fischer Avenue, Unit D1

Costa Mesa, CA 92626

Phone: 800-400-6808

William F. Cash III (Ill. Bar No. 6330856)

bcash@levinlaw.com

Matthew D. Schultz (*pro hac vice*)

mschultz@levinlaw.com

**LEVIN, PAPANTONIO, PROCTOR,
BUCHANAN, O'BRIEN, BARR & MOUGEY,
P.A.**

316 South Baylen Street, Suite 600

Pensacola, FL 32502

Phone: 850-435-7059

D. Greg Blankinship (*pro hac vice*)

gblankinship@fbfglaw.com

Bradley F. Silverman (*pro hac vice*)

bsilverman@fbfglaw.com

**FINKELSTEIN, BLANKINSHIP,
FREI-PEARSON & GARBER, LLP**

1 North Broadway, Suite 900

White Plains, NY 10601

Phone: 914-298-3290

Attorneys for Plaintiff Dennis Gromov